



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,392	04/19/2004	Jonah Staw	89235	3113
34440 7590 04/12/2007 COLLEN IP THE HOLYOKE MANHATTAN BUILDING 80 SOUTH HIGHLAND AVENUE OSSINING, NY 10562			EXAMINER ZURITA, JAMES H	
			ART UNIT 3625	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/12/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/827,392

Applicant(s)

STAW ET AL.

Examiner

James H. Zurita

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

On 19 April 2004, applicant filed the instant application.

On 27 October 2005, the application was published as PG-PUB

20050240486.

On 30 January 2007, applicant elected to prosecute claims 1-20.

Claims 1-23 are pending, of which claims 21-23 are withdrawn from prosecution as being directed to non-elected invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one of skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claims refer to "coordinating" "non-matched" products, but there is no enablement for another to make the invention to achieve the results.

The following is a quotation of second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3625

Claims 5, 14 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5, 14 and 18 refer to non-traditional quantities, which is not defined. The term will be interpreted to include number, measure, extent, size, magnitude, capacity (MS Thesaurus).

Claim 16 refers to a product that is a kitchen. Other claims refer to more specific products. Prior art will be found to meet the claimed limitations where prior art discloses furniture, accessories, appliances, drapes, curtains, etc.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-12, 14-16, 18-20, as interpreted, are rejected under 35 U.S.C. 102(b) as being anticipated by Feld et al., US PG-PUB 20010026272, filed 26 February 2001 and published 4 October 2001.

In claims 1-20, claims drawn to a method, the term **system** is interpreted as referring to a series of steps rather than to an apparatus.

As per claim 1, Feld discloses methods for creating non-matched but coordinated products comprising:

Art Unit: 3625

Selecting the product to be coordinated but not matched wherein the product has distinguishable components (see, for example, at least paragraph 0054);

Selecting a feature on the product for coordinating but not matching [?].
see paragraph 0045;

Creating a system to be used to coordinate the non-matching [???]. see, for example at least Figs. 5, 6 and 10 for series of steps in the system;

Applying the system to the product's creation (paragraph 0012).

As per claim 2, Feld discloses that system for coordinated non-matching considers age (paragraph 0035) sex (paragraph 0032) and culture, of the intended users for the product.

As per claim 3, Feld discloses considering the characteristics of color (paragraph 0039), patterns (paragraph 0013), shapes (paragraph 0002) and size (paragraph 0039) for coordination.

As per claim 4, Feld discloses that products selected are chosen from a category of products traditionally sold in pairs (socks, as in paragraph 0032).

As per claim 5, Feld discloses that a product is packaged for sale in non-traditional quantities. See paragraph 0002.

As per claim 6, Feld discloses that products are product is socks (paragraph 0032).

As per claim 8, Feld discloses that product selected is chosen from a category of products with distinguishable parts (eyeglasses, as in paragraph 0032).

Art Unit: 3625

As per claim 9, Feld discloses that product is a pair of eyeglasses (paragraph 0032).

As per claim 10, Feld discloses that product is a pair of sweatpants. Jumpsuits, as in Paragraph 0032.

As per claim 11, Feld discloses that product selected is chosen from a category of products with multiple pieces. See for example, at least Fig. 11 and related text.

As per claim 12, Feld discloses that the product is pajama tops, bottoms, and slippers. Paragraph 0032, lingerie, underclothing.

Claim 14 is rejected on the same grounds as claim 5.

As per claim 15, Feld discloses that that the product selected is chosen from a category of products traditionally matched within a group. See at least Fig. 11 and related text.

As per claim 16, Feld discloses that that the product is a kitchen. See at least paragraph 0008 and references to furniture coverings, curtains, etc.

Claim 18 is rejected on the same grounds as claim 5.

As per claim 19, Feld discloses that that the product selected are chosen from a category of products traditionally sold in pairs wherein the products have multiple unconnected pieces. See references to suits, as in paragraph 0032.

As per claim 20, Feld discloses that the product selected are chosen from a category of products traditionally sold in pairs, wherein the products have multiple physically connected pieces. See, for example, at least Fig. 11 and related text.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feld.

As per claim 7, Feld discloses jewelry (paragraph 0032). Feld ***does not*** specifically refer to earrings. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Feld to include earrings. One of ordinary skill in the art at the time the invention was made to extend Feld to include earrings for the obvious reason that earrings are used to complete a personal image.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feld in view of Berger, US 6,414,693.

As per claim 13, Feld does not specifically disclose a luggage set. This is disclosed by Berger, Col. 1, lines 12-33. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Feld and Berger to disclose that a product is a luggage set.

Art Unit: 3625

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Feld and Berger to disclose that a product is a luggage set for the obvious reason that a customer can thereby customize appearances of base articles.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feld in view of Marx et al. (PG-PUB 2003/0104148A1).

As per claim 17, Feld ***does not*** specifically disclose that products include clothing for members of a team. This is disclosed by Marx, paragraph 0008. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Feld and Marx to disclose that products are clothing for team members. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Feld and Marx to disclose that products are clothing for team members for the obvious reason that fans may wish to match their favorite college and professional team colors and designs.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The

Art Unit: 3625

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Zurita
Primary Examiner
Art Unit 3625
6 April 2007


JAMES ZURITA
PRIMARY EXAMINER